DISTRICT OF COLUMBIA
DOH Office of Adjudication and Hearings
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Washington D.C. 20002

DISTRICT OF COLUMBIA DEPARTMENT OF HEALTH Petitioners, v. JAMES LONG Respondent	Case No.: A-01-80056

FINAL ORDER

I. Introduction

On May 9, 2001, this administrative court received the Government's request to convene a hearing pursuant to D.C. Code § 6-1021.2 in this matter.[1] The purpose of this hearing would be to determine whether "Face," a dog owned[2] by Respondent James Long, is a "dangerous dog"

[1] This administrative court has jurisdiction over this matter pursuant to Reorganization Plan No. 4 of 1996, Mayor's Order Nos. 97-42, 99-68, and 00-98 and Department of Health Organizational Order Nos. 99-24 and 01-26.

[2] At all time during this proceeding, Respondent has identified himself as the owner of the dog at issue. In documents submitted by Respondent at the hearing, however, the owner of the dog is listed as Ms. Naimah Hillaird. *See* Respondent's Exhibits 200-202 ("RX-200, RX-201, RX-202"). During the hearing, Respondent identified Ms. Hillaird on the record as his fiancé.

An "owner" for purposes of the District of Columbia's Dangerous Dog statute (D.C. Code §§ 6-1021, *et seq.*) is defined as "any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of a dog." D.C. Code § 6-1021.1(4). Based on the testimony presented at the hearing, it is clear that Respondent had both control over and custody of the dog at the time of the alleged incident. Moreover, neither the parties, nor Ms. Hillaird, who attended each phase of these proceedings, has disputed that Respondent

as defined in D.C. Code § 6-1021.1 and, if so, whether the dog would constitute a significant threat to public health and safety if returned to Respondent. If both of these inquiries are answered in the affirmative, the Government would be authorized to humanely destroy the dog in accordance with D.C. Code § 6-1021.3.

Pursuant to D.C. Code § 6-1021.2(c), the requested hearing was to be convened within no less than five (5), and no more than ten (10) days, excluding holidays, Saturdays and Sundays, after service of the notice of the hearing upon the owner of the dog. Accordingly, I convened the hearing on May 21, 2001, at which time the parties outlined their theories of the case and evidentiary support for those theories. At this phase of the hearing, I advised Respondent, who was proceeding *pro se*, of his right to have counsel present at these proceedings and of sources of potential *pro bono* legal assistance if needed. Respondent stated that he would attempt to secure counsel, and requested that he be given at least two weeks to do so. Upon the consent of the Government, the hearing was continued to June 14, 2001. *See* OAH Second Supplemental Scheduling Order (May 24, 2001).

The hearing re-convened on June 14, 2001 at which time the parties put forth their documentary evidence and testimony. Respondent elected to proceed without counsel. The Government put forth the following witnesses: Rose Brown, the mother of Tiana Brown, the ten year-old girl who allegedly was attacked by Respondent's dog, testified about her daughter's condition immediately after the attack and upon her daughter's release from the hospital;

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satisfies the definition of an "owner" under the statute. Accordingly, I find that Respondent is the owner of the dog for all relevant purposes herein.

L'Tonia Brown, Tiana's sister, testified about what she saw as a witness to the attack; Scotlund Haisley, an employee of the Washington Humane Society/D.C. Animal Control Division, testified about the impoundment of the dog after the attack, as well as the dog's behavior while impounded; and Peggy Keller, Chief of the Animal Disease Control Section of the D.C. Department of Health, authenticated certain documents offered by the Government relating to the attack and impoundment. The Government also offered three exhibits, Petitioner's Exhibits 100-102 ("PX-100, PX-101, PX-102"), which were admitted into evidence without objection. Respondent testified on his own behalf but offered no additional witness testimony. Respondent also offered three exhibits, RX-200, RX-201 and RX-202, which were admitted into evidence without objection.

At the close of the hearing, I held the record open for ten (10) days specifically to allow Respondent the opportunity to submit additional evidence regarding his ability to comply with the requirements of D.C. Code § 6-1021.4(4) ("The owner of the dangerous dog has the written permission of the property owner where the dangerous dog will be kept"), and D.C. Code § 6-1021.4(7) ("The owner of the dangerous dog has secured a policy of liability insurance issued by an insurer qualified under District law in the amount of at least $50,000 insuring the owner for any personal injuries inflicted by the dangerous dog and containing a provision requiring the District to be named as an additional insured for the sole purpose of requiring the insurance company to notify the District of any cancellation, termination, or expiration of the liability insurance policy"), should this administrative court determine that his dog is a dangerous dog under the statute. I memorialized this extension by order dated June 15, 2001. The June 15th

order also required that, to the extent Respondent submitted any additional documents, those documents must also be served upon the Government.

On June 25, 2001, this administrative court received Respondent's submissions, which included an unexecuted, type-written document purporting to be a letter from Respondent's landlord giving him permission to keep the dog on the premises, and a Renter's Insurance Policy application form (indicating a $50,000.00 coverage limit for personal property) from State Farm Insurance Company executed by Respondent.[3] These documents have been marked as RX-203 and RX-204. Because Respondent's submission did not indicate service upon the Government, by order dated June 28, 2001, I ordered that RX-203 and RX-204 be served upon the Government, and left the record open until July 5, 2001 at 5:00 PM by which time the Government was permitted to file and serve a response.

The Government timely responded to Respondent's submissions, challenging them on the general ground that they failed to provide any evidence of Respondent's ability to comply with the specified sections of D.C. Code § 6-1021.4. Notwithstanding those objections, RX-203 and RX-204 were admitted into evidence, and the hearing record was closed on July 5, 2001. The statute requires a decision to be reached within five (5) days after the close of the hearing. This decision is being filed within that deadline, excluding the intervening weekend days.

[3] Although the June 15th order set June 24, 2001 as the deadline for Respondent's submission, this administrative court accepted Respondent's submission for filing on June 25, 2001, as the administrative court was closed on June 24, 2001.

II. Findings of Fact

Based upon the testimony of all the witnesses, my evaluation of their credibility, the documents admitted into evidence, and the entire record in this matter, I now make the following findings of fact:

Respondent resides at 523 Sheridan Street, N.W. RX-204. Respondent is the owner of "Face", a 22-month old male dog of the Cane Corso breed that weighs approximately 120 pounds. RX-200. Respondent has trained his dog to be a guard dog as well as an attack dog, and posts "Beware of Dog" and "Guard Dog on Duty" signs at his residence.

A. The Attack

On April 16, 2001 between 10:00 PM and 10:30 PM, Respondent was in the basement of his residence, and heard his dog barking upstairs. When he arrived upstairs, Respondent saw his dog barking at the closed front door, as if someone were on the front porch. While his dog continued to bark, Respondent turned on the porch light and looked outside. No one was on the front porch.

Respondent then looked towards his 1985 Chevy Blazer truck which was parked approximately 30 yards from his residence on the far side of Sheridan Street, N.W. PX-100. While he could not see through his truck's windows because they are tinted, Respondent thought he saw someone's head on the far side of his truck towards the back. Respondent explained that

he had a $12,000 high-performance transmission in the back of his truck, and was concerned that someone may have been trying to steal it.

Respondent proceeded to yell twice in the direction of his truck words to the effect of, "Get away from my truck! What are you doing in my truck?" Seeing no movement, Respondent then yelled words to the effect of, "Get away from my truck before I let the dog out!" At that time, Respondent observed someone appear to move from the far side of his truck and hide behind a tree which was located a few feet behind the truck.

Respondent saw no more movement by his truck or by the tree. Respondent indicated that, at this time, he believed that there may have been more than one person by his truck: one actually inside his truck, and the other, now by the tree, who served as a "look-out." Respondent also stated that he felt that this "person" behind the tree was perhaps waiting for him to come towards the truck at which time the person would seek to cause him harm. Respondent noted that there had been other recent incidents of violence in his neighborhood, including homicides.

Seeing no more movement by his truck or by the tree, and believing that the "person" may have been lying in wait for him should he approach the truck, Respondent opened his front door and let his dog out. The dog ran out through Respondent's neighbor's property towards Respondent's truck. As it turned out, the person observed by Respondent was Tiana Brown, a ten year-old girl, who resides at 512 Sheridan Street, N.W. and who, according to her older sister, was merely standing alone in the area near Respondent's truck. Ms. Brown screamed as the dog came towards her, and began running around a parked car with the dog in pursuit. Ms.

Brown then ran back towards the tree and the dog caught up to her, knocked her down to the ground and bit her on her face, back and buttocks, leaving puncture wounds.

After seeing that the person who had been in proximity to his truck was a child, Respondent ran over to where Ms. Brown was being attacked and ordered the dog to release its hold on her. The dog complied. PX-100. Respondent then picked up Ms. Brown off the ground, walked her over to one of his other vehicles on the street, and asked his fiancé to get a towel for Ms. Brown and to call an ambulance. Ms. Brown was later transported to Children's National Medical Center for treatment. As a result of the attack, Ms. Brown received approximately 35-40 stitches for facial lacerations and underwent surgery for a fractured left hip.[4] PX-100. A Department of Health Animal Bite Report of the incident was issued the same evening, and Respondent's dog was placed on a ten-day, in-residence quarantine period. PX-101.

[4] At the preliminary phase of the hearing, Respondent indicated that Ms. Brown had pre-existing problems with her legs. As a result, Respondent suggests, Ms. Brown's hip fracture may not have been entirely due to the attack. Ms. Brown's mother's testimony revealed that Ms. Brown had in fact broken her right leg approximately two years ago, and had hurt her left ankle approximately one year ago as a result of a car accident. Were this case brought under another portion of the dangerous dog statute, or were this a personal injury case, such information might be relevant. *Cf.* D.C. Code § 6-1021.6(b) (setting out penalties for the owners of dangerous dogs who, among other things, cause "serious injury" as defined in D.C. Code § 6-1021.1(2)); *Williams v. Patterson*, 681 A.2d 1147, 1150 (D.C. 1996) (discussing necessity of determining "increased or augmented sufferings" for recovery in cases involving pre-existing conditions); *McLeish v. Beachy*, 746 A.2d 892, 895-96 (D.C. 2000) (same). In this instance, however, the only relevant issues are (1) whether Respondent's dog attacked Ms. Brown without provocation, and, (2) if so, whether returning the dog to Respondent would constitute a significant threat to the public health and safety. D.C. Code §§ 6-1021.1, 6-1021.2. Therefore, disputes as to the extent to which Respondent's dog caused or aggravated Ms.

B. The Impoundment

Upon further review of the incident, Ms. Keller, Chief of the Animal Disease Control Section of the D.C. Department of Health, determined that the circumstances surrounding the attack warranted impounding Respondent's dog. On April 18, 2001 at approximately 6:10 PM, Scotlund Haisley of the Washington Humane Society/D.C. Animal Control Department came to Respondent's residence along with an officer of the D.C. Metropolitan Police Department to impound the dog.[5] PX-100; PX-102. To avoid agitating the dog, Respondent placed the dog on Mr. Haisley's truck.

At the shelter, the dog has exhibited aggressiveness, and caretakers at the shelter do not go into his cage unless he is somehow confined to a portion of the cage by use of a "guillotine"-like door. Mr. Haisley has developed perhaps the closest relationship with the dog of anyone at the shelter and is the only one who handles the dog. However, sometimes even when Mr. Haisley approaches the dog, the dog growls and snaps at the air. Mr. Haisley testified that when the dog is exhibiting such aggressiveness, he will not handle the dog.

Brown's injuries -- so long as it can be established, as it has been here, that she was in fact attacked by Respondent's dog -- are immaterial for purposes of this disposition.

[5] While there is no evidence in the record that the Government obtained a search warrant pursuant to D.C. Code § 6-1021.2(b) prior to impounding Respondent's dog, Respondent has not contested the lawfulness of the impoundment in these proceedings.

III. Conclusions of Law

A. Is Respondent's Dog a "Dangerous Dog" Under D.C. Code § 6-1021.1?

1. Interpreting "Provocation" Under D.C. Code § 6-1021.1(1)(A)(i)

At the hearing, the Government represented that it sought to establish by a preponderance of the evidence that Respondent's dog is a dangerous dog under D.C. Code § 6-1021.1(1)(A)(i) which provides that a "dangerous dog" means any dog that: "(i) Has bitten or attacked a person or domestic animal without provocation . . . ." In this case, it is undisputed that Respondent's dog attacked Ms. Brown. The Government contends that this attack was without provocation for purposes of D.C. Code § 6-1021.1(1)(A)(i). The Respondent suggests, although not directly, that he provoked his dog to attack in response to Ms. Brown's activities in the area of his truck. The central issue in this case, therefore, is whether or not the attack on Ms. Brown was "without provocation" as that phase is used in the statute.[6]

The phrase "without provocation" is not defined in the statute, and its interpretation appears to be a matter of first impression for this administrative court. *Cf. DOH v. Evans*, OAH

[6] This issue is central to this case because, to the extent I conclude that Respondent's dog was provoked to attack Ms. Brown on the night of April 16, 2001, the dog would not meet the definition of a dangerous dog under the statute, and the matter would be dismissed. On the other hand, to the extent I conclude that Respondent's dog attacked without provocation that night, the dog would satisfy the definition of a dangerous dog. This would then require that I determine whether, considering the relevant circumstances, returning the dog to Respondent would "constitute a significant threat to the public health and safety. . . ." D.C. Code § 6-1021.2(a).

No. A-01-80043 (Final Order, February 9, 2001) at 8-9 ("*Evans*"); *DOH v. Perry*, OAH No. A-00-80005 (Final Order, May 3, 2000) at 2-3 ("*Perry*"). A review of the legislative history of the statute suggests, however, that provocation should be construed based upon the actions of the victim of the attack, as opposed to those of the dog owner. In drafting and adopting the dangerous dog legislation in 1987 and 1988, the D.C. Council clearly was targeting the irresponsible behavior of dog owners:

> Humane society and animal control experts report that most of the Pit Bulls in the District appear to be concentrated in the lower-income areas of Northeast and Southeast where the breed has become a new, cheap, and lethal weapon for some youth to threaten other youth and some adults. These young people hide the dogs from their families, but let their peers know that they had better watch out because they have a "killer dog". . .
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> Experts on the problem of vicious or dangerous dogs agree that the problem lies not with a particular breed of dog, but with irresponsible owners who tend to converge on a breed that has the potential to be trained or tortured until it is a vicious dog. More than 95% of all dog bites in the United States are caused by dogs of various breeds that are improperly restrained or supervised . . . .

Report of the Committee on Human Services of the Council of the District of Columbia on Bill 7-276, the "Dangerous Dog Amendment Act of 1988" (March 31, 1988) ("*Committee Report*"), at 2-3.

To the extent the legislative intent in adopting the dangerous dog statute was to address the irresponsible behavior of dog owners, assessing whether a dog was provoked to attack based on the actions of the dog owner appears inconsistent with that intent. For example, assume that the owner of a dog orders that dog to attack a person without privilege. If provocation were

determined based on the actions of the dog owner, it could be argued that the dog was provoked by the owner to attack the person. As a result, an attack dog acting on the instruction of its owner could virtually never be declared a dangerous dog for purposes of D.C. Code § 6-1021.1(1)(A) because such a dog would always be deemed to have been provoked to attack. Again, such an interpretation of the statute appears contrary to the expressed legislative intent. *See Committee Report*, at 2-3.

The better model, and the one I adopt for purposes of this disposition, is to assess provocation from the perspective of the alleged victim of the attack, *i.e.*, did the alleged victim, either by violating applicable law or acting unreasonably under the circumstances, do something to provoke the attack? A survey of dangerous dog legislation around the nation and its territories supports the use of this model. For example, under Florida's dangerous dog statute, the term "unprovoked" means "that the victim who has been conducting himself or herself peacefully and lawfully has been bitten or chased in a menacing fashion or attacked by a dog." FLA. STAT. ch. 767.11(2) (2000). Similarly, under the United States Virgin Islands' dangerous dog statute, the terms "without provocation" or "unprovoked" mean that "the person bitten or attacked . . . did not mischievously or carelessly provoke or aggravate the dog . . . ." 19 V.I. CODE ANN. tit. 19, § 2602(13) (2000). Moreover, other dangerous dog statutes, while not necessarily defining the term "provocation", generally provide that if, at the time of the attack, the victim is engaging in illegal activity, or has somehow abused or tormented the dog, the dangerous dog classification is inapplicable. *See, e.g.*, 510 ILL. COMP. STAT. ANN. 5/15(v) (West 2001) (Illinois); 3 PA. CONS. STAT. § 459-507-A(B) (2000) (Pennsylvania); NEB. REV. STAT. ANN. § 54-617(3) (Michie 2001)

(Nebraska); N.C. GEN. STAT. § 67-4.1(b)(4) (2000) (North Carolina); R.I. GEN. LAWS § 4-13.1-2(6) (2001) (Rhode Island).

2. Did Ms. Brown Provoke the Attack?

In light of the foregoing discussion, I must now determine whether on the night of April 16, 2001, Ms. Brown, either by violating applicable law or acting unreasonably under the circumstances, provoked Respondent's dog to attack her for purposes of D.C. Code § 6-1021.1(1)(A)(i).

First, there is no evidence in the record to suggest that the attack on Ms. Brown was proximately caused by any illegal activity on her part.[7] Respondent has speculated that, prior to his identification of her, Ms. Brown was either attempting to break into his truck or, in the alternative, was serving as a look-out. There is no evidence to support that speculation, however. To the contrary, Ms. Brown's older sister testified that she witnessed Ms. Brown merely standing

[7] As an aside, Ms. Brown's presence on the public street near her home around 10:00 PM to 10:30 PM on Monday, April 16, 2001 did not violate the District's Juvenile Curfew law. *See* D.C. Code §§ 6-2182(1); 6-2182(9); 6-2183(a)(1); *see also Hutchins v. District of Columbia*, 188 F.3d 531 (D.C. Cir. 1999) (upholding constitutionality of the District's Curfew law). Even if Ms. Brown had violated the curfew law, however, the result remains the same. Various dangerous dog statutes around the country suggest that there must be a proximate causal relationship between the illegal activity and the attack in order for the dangerous dog classification not to apply. *See, e.g.*; 510 ILL. COMP. STAT. ANN. 5/15(v) (West 2001) (Illinois); 3 PA. CONS. STAT. § 459-507-A(B) (2000) (Pennsylvania); NEB. REV. STAT. ANN. § 54-617(3) (Michie 2001) (Nebraska); N.C. GEN. STAT. § 67-4.1(b)(4) (2000) (North Carolina); R.I. GEN. LAWS § 4-13.1-2(6) (2001) (Rhode Island); *see also Wagshal v. District of Columbia*, 216 A.2d 172, 175 (D.C. 1966) (defining proximate cause as "that cause which, in natural and continual sequence, unbroken by any efficient intervening cause, produces the injury and without which the result would not have occurred"). A curfew violation, without more, would not be deemed a proximate cause of an attack.

alone in the vicinity of Respondent's truck immediately prior to the attack. Respondent has presented nothing to impeach the credibility of this eyewitness.

Second, while one might question Ms. Brown's response to the repeated warnings of Respondent to get away from his truck, which I find were in fact given, there is no evidence in the record to suggest that a reasonably prudent, similarly-situated child would not have reacted in a similar fashion. Again, Respondent speculates that a reasonable person who was given the warnings he gave that night would have fled from the area, thereby obviating the need for Respondent to release his dog. The scenario articulated by Respondent is indeed plausible. Equally plausible, however, is that a child might react as if hiding in response to Respondent's warnings was a game, or, alternatively, might be too frightened to react at all. All of this is to say that the fact that Ms. Brown hid behind a tree in response to Respondent's warnings does not, by itself, establish that she acted unreasonably that night, and there is nothing else in the record to support such a conclusion.

Accordingly, I conclude that on April 16, 2001, Respondent's dog attacked Ms. Brown without provocation for purposes of D.C. Code § 6-1021.1(1)(A)(i), and, as a result, Respondent's dog is a dangerous dog within the meaning of that statute.

B. Would Respondent's Dog Constitute a Significant Threat to Public Health and Safety if Returned to Respondent?

Once a dog has been determined to be a dangerous dog, the statute requires that I determine whether the return of the dog to its owner would "constitute a significant threat to the public health and safety . . . ." D.C. Code § 6-1021.2(a). Under the statute, a dangerous dog determined to constitute a significant threat to the public health and safety if returned to its owner may be humanely destroyed. D.C. Code § 6-1021.3. As recently discussed by this administrative court in *Evans*, this "significant threat" determination may involve a two-tiered analysis:

> There are two elements to the "significant threat" determination. First, the statute imposes certain mandatory requirements upon the owner of the dog. D.C. Code §§ 6-1021.4, 6-1021.5. An owner's failure to satisfy those requirements demonstrates that the dog is a "significant threat," because those requirements represent minimum standards necessary to safeguard the public from a dog with a proven history of at least one unprovoked attack. Alternatively, it is possible that the Government might prove that there would be a significant threat even if all the statutory requirements were satisfied . . . .
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> *Evans*, at 12-13.

In this case, as in *Evans*, I need not reach the issue of whether the Government can establish that there would be a significant threat even if all the statutory requirements were satisfied: Respondent's failure to satisfy those statutory requirements is sufficient to justify a conclusion that the dog presents a significant threat. *Accord Evans v. DOH*, Case No. 01ca1347, at 5 (D.C. Super. Ct. Apr. 20, 2001) (affirming on appeal the determination in *Evans*

that the failure of owner of a dangerous dog to satisfy all the requirements of D.C. Code §§ 6-1021.4, 6-1021.5 constitutes a significant threat to the public health and safety).

In concluding that Respondent's dog would present a significant threat to the public health and safety if returned to Respondent, I rely upon two subsections of D.C. Code § 6-1021.4 which Respondent has failed to satisfy:

1. D.C. Code § 6-1021.4(4): This subsection requires that Respondent have the written permission of the property owner where the dangerous dog will be kept. In an attempt to satisfy this requirement, Respondent submitted an unsigned letter dated June 21, 2001 purportedly from his landlord which provides in type-face: "To whom it may concern: This letter is to verify that James Long has my permission to have his dog on the premesis [sic]. He resides at 523 Sheridan Street, NW Washington with his family and his dog." Thank You, Yomi Olornfemi". RX-203.

The Government has objected to the letter on two grounds: (1) that the statement is unsigned, and, as such, there is no indication that the property owner has even seen it; and, (2) that there is no indication in the statement "that the property owner has been informed of the breed of dog [or] of any allegation of dangerousness concerning the dog." Petitioner's Response To Respondent's Filing, at 1-2.

The Government's first objection to Respondent's submission is well taken. Because the letter is unsigned, there is no evidence in the record of its authenticity. Even if the letter had

been signed, however, its purported author has not been properly identified either in the letter or elsewhere as the property owner of Respondent's residence at 523 Sheridan Street, N.W. As to the Government's second objection, however, the plain language of D.C. Code § 6-1021.4(4) simply does not require a kind of "informed consent" on the part of the landlord granting permission to keep the dangerous dog, and I will not infer such a requirement. So long as the owner of the dog has the written permission of the property owner where the dangerous dog will be kept, the requirements of D.C. Code § 6-1021.4(4) are satisfied.[8] In this instance, however, I conclude that, for the reasons set forth above, Respondent has not adequately established such permission. Accordingly, Respondent has failed to satisfy the requirements of D.C. Code § 6-1021.4(4).

2. D.C. Code § 6-1021.4(7): This subsection requires the owner of the dangerous dog to obtain a liability insurance policy in the amount of at least $50,000 "for any personal injuries inflicted by the dangerous dog." In an attempt to satisfy this requirement, Respondent submitted a Renter's Insurance Policy application form dated June 25, 2001. RX204. The Government has objected to Respondent's submission on the grounds that: "[T]his policy is apparently for loss of personal property only and does not apply to personal liability of any kind. In fact, the lines for 'Personal Liability' and 'Medical Payments to Others' both have been checked as 'Declined'." Petitioner's Response To Respondent's Filing, at 2.

[8] Of course, in addition to having the permission of the landlord to keep the dog on the premises, the premises itself must have the proper enclosures and posted warnings in order to protect the public. *See* D.C. Code §§ 6-1021.4(5); 6-1021.4(6).

Again, the Government's objection to Respondent's submission is well taken. While the Renter's Insurance Policy application form lists a limit of $50,000 in personal property coverage, coverage for personal liability and medical payments was declined. RX-204. In contrast, the provisions of D.C. Code § 6-1021.4(7) expressly require the insuring of the owner of the dangerous dog "for any personal injuries inflicted by the dangerous dog . . . ." The importance of the maintenance of such an insurance policy is evident. As discussed in *Perry*, the absence of such insurance "creates a significant risk that if the dog ever committed a second unprovoked bite in the District of Columbia, a complainant would not have access to all necessary or desirable health care and support because of a lack of recourse to Respondent's insurance policy." *Perry*, at 3. Accordingly, Respondent has failed to satisfy the requirements of D.C. Code § 6-1021.4(7).

Due to Respondent's failure to comply with both D.C. Code §§ 6-1021.4(4) and 6-1021.4(7), I conclude that there will be a significant threat to public health and safety if his dog is returned to him.

IV. Order

Based upon the above findings of fact and conclusions of law, and the entire record in this matter, it is, this ____ day of _____, 2001:

ORDERED, that "Face," a dog owned by Respondent James Long, is hereby declared to be a dangerous dog, as defined in D.C. Code § 6-1021.1(1)(A)(i); and it is further

ORDERED that it is hereby determined that "Face" will constitute a significant threat to the public health and safety if returned to his owner; and it is further

ORDERED that, pursuant to D.C. Code § 6-1021.3, the Government may humanely destroy "Face"; and it is further

ORDERED that, pursuant to D.C. Code § 6-1021.2(e), Respondent may contest the foregoing determinations within five (5) days of the date of this order by bringing a petition in the Superior Court of the District of Columbia; and it is further

ORDERED by this administrative court, *sua sponte*, that, due to the irreparable injury that will be inflicted in accordance with this order, this order is hereby **STAYED** until 4:00 PM on July 16, 2001 in order to permit Respondent to seek review and a further stay in the Superior Court. The Government may not destroy the dog before the date and time noted above. This

stay will expire automatically, without further order of this administrative court, on the day and time noted above unless the Superior Court or this administrative court grants a further stay.

/s/ 7/9/01

Mark D. Poindexter
Administrative Judge